IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 397 of 2005

Between:

B. Surendranath Reddy, S/o. Lakshmi Reddy, Occ:Conductor, E.No.98577
R/o. D.No.3-295, Akkaipally, Kadapa, Kadapa District.

..... PETITIONER

AND

1. The Depot Manager, APSRTC, Pulivendula Depot, Pulivendula, Kadapa District.
2 The Senior Manager (Operations), APSRTC, Kadapa, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ declaring the proceedings No.P1/1(45)/95-PVL dt. 26.9.1995 of the 1st respondent as illegal, arbitrary in violation of principles of natural justice and in violation of Art. 14 and 21 of the Constitution of India and consequentially direct the respondents to add one annual increment to the pay of the petitioner and pass such other or further order as this Honourable Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:S.SURENDRA KUMAR

Counsel for the Respondent Nos.1 and 2: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following Order:

The petitioner was appointed as a Conductor in the respondent-Corporation. He was issued a charge memo on 27.06.1995 and after receiving the explanation of the petitioner, final orders were passed on 26.09.1995 imposing the punishment of withholding one increment for a period of one year with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment, with cumulative effect is a major penalty and the first respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the impugned order is illegal and it is liable to be set aside.

Learned counsel for the petitioner relied on a Judgment of the Supreme Court in **Kulwant Singh Gill v. Sate of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without enquiry. The petitioner, therefore, seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 9 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in Kulwant Singh Gill's case (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment without cumulative

effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of one annual increment without cumulative effect.

The writ petition is accordingly disposed of with the above observation. No costs.

20.01.2005

usd

To

1. The Depot Manager, APSRTC, Pulivendula Depot, Pulivendula, Kadapa District.
2 The Senior Manager (Operations), APSRTC, Kadapa, Kadapa District.
3. Two CD copies.